



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

NEW HAMPSHIRE TROOPERS ASSOCIATION :

Complainant :

v. :

STATE OF NEW HAMPSHIRE,
DEPARTMENT OF SAFETY :

Respondent :

CASE NO. P-0754:5

DECISION NO. 97-122

RULING ON MOTION TO DISMISS

The New Hampshire Troopers Association (Association) filed unfair labor practice charges claiming violations of RSA 273-A:5 I (e) and (g), on August 27, 1997. The State of New Hampshire (State) filed its answer and Motion to Dismiss on September 11, 1997. The Association filed its objection to the Motion to Dismiss on September 22, 1997. The argument on the motion was heard on November 14, 1997.

The Association alleges two statutory violations. The Association charges that the State refused to bargain in good faith pursuant to RSA 273-A:5 I (e) and the Association claims that the State failed to comply with Chapter 273-A pursuant to RSA 273-A:5 I (g). Addressing the first matter, the State argues that the Association may not prevail on the charge that the State has failed to bargain in good faith because the subject matter not bargained is not a mandatory subject of bargaining between the parties.

The following facts are not in dispute. The New Hampshire State Police is a paramilitary organization which employs a system of ranks noted as commonly used by the military and such paramilitary organizations. These ranks include the rank of trooper and corporal. On March 14, 1997, a number of corporals

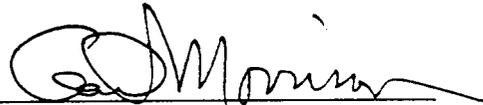
were subjected to a change of rank to Trooper II for non-disciplinary reasons without benefit of negotiations between the parties. This unilateral action by the State gives rise to the unfair labor practice charges.

The Association asserts that awarding a rank is similar to conferring a benefit which is in the nature of a term or condition of employment and so is a mandatory subject of bargaining. Further, the Association asserts that the requirement of bargaining would provide the statutory violation under RSA 273-A:5 I (g).

The Association need only state a claim upon which relief may be granted to overcome dismissal. The claim need not now be proven. The Association has alleged a complaint which is sufficient in its elements on its face and has requested relief should it prevail.

ORDERED that the State's Motion to Dismiss is DENIED.

Signed this 18th day of December, 1997.



GAIL C. MORRISON
Hearings Officer